

HOUSE BILL No. 1640

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-7-2-82; IC 12-17.2; IC 12-17.4; IC 16-36-3-1.

Synopsis: Emergency closure of child care facilities. Allows the division of family and children to issue an order for emergency closure of a child care center, a child care home, a child care ministry, or a child caring institution. Provides for administrative review upon request. Requires the division to report the issuance of an order for emergency closure to the attorney general, the county office of family and children attorney, and the local prosecuting attorney. Changes references to "county department of public welfare" to "county office of family and children" to reflect the correct name of that office.

Effective: July 1, 2001.

Dickinson, Budak

January 17, 2001, read first time and referred to Committee on Human Affairs.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1640

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-7-2-82 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 82. "Facility" means
3 the following:

4 (1) For purposes of IC 12-17-12, the meaning set forth in
5 IC 12-17-12-3.

6 (2) For purposes of IC 12-17-13, the meaning set forth in
7 IC 12-17-13-2.

8 (3) **For purposes of IC 12-17.2-2.5, the meaning set forth in**
9 **IC 12-17.2-2.5-1.**

10 (4) For purposes of IC 12-26, a psychiatric hospital, a community
11 mental health center, another institution, a program, a managed
12 care provider, or a child caring institution:

13 (A) where a mentally ill individual can receive rehabilitative
14 treatment, or habilitation and care, in the least restrictive
15 environment suitable for the necessary care, treatment, and
16 protection of the individual and others; and

17 (B) that has adequate space and treatment staff appropriate to

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1 the needs of the individual as determined by the
2 superintendent of the facility.

3 The term includes all services, programs, and centers of the
4 facility, wherever located.

5 ~~(4)~~ (5) For purposes of IC 12-15-32, the meaning set forth in
6 IC 12-15-32-1.

7 SECTION 2. IC 12-17.2-2.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2001]:

10 **Chapter 2.5. Emergency Closure of Child Care Facilities**

11 **Sec. 1. As used in this chapter, "facility" means a:**

- 12 (1) child care center;
13 (2) child care home; or
14 (3) child care ministry;

15 **that is required to be licensed or registered under this article.**

16 **Sec. 2. (a) The division may issue an order for emergency
17 closure of a facility if the division determines that:**

- 18 (1) the facility is not in compliance with this article, including
19 operating without the required license or registration; and
20 (2) there is reasonable cause to suspect that the:
21 (A) health;
22 (B) safety; or
23 (C) well-being;

24 **of a child enrolled in the facility is in imminent danger.**

25 **(b) An order for emergency closure issued under this section
26 must include the following information:**

- 27 (1) The date and time of emergency closure.
28 (2) Each reason for emergency closure.
29 (3) Any condition that the facility must remedy immediately.
30 (4) The right of the facility to request an administrative
31 hearing under section 8 of this chapter.

32 **Sec. 3. An order for emergency closure issued under this
33 chapter takes effect immediately upon notice to the facility.**

34 **Sec. 4. A facility to which the division has issued an order for
35 emergency closure may not operate during the time that an order
36 for emergency closure is in effect.**

37 **Sec. 5. (a) A facility to which the division has issued an order for
38 emergency closure may request an informal meeting with the
39 division within five (5) days after the order for emergency closure
40 is issued.**

41 **(b) The division shall grant a request made under subsection (a).**

42 **Sec. 6. An order for emergency closure issued under this**

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chapter remains in effect until the earliest of the following:

(1) The facility takes the action required by the division to address the reason for emergency closure.

(2) The division determines through an investigation that the reasonable cause required under section 2(a)(2) of this chapter for issuance of the order no longer exists.

(3) Fourteen (14) days after the date of issuance of the order.

Sec. 7. After issuing an order for emergency closure of a facility under this chapter, the division shall:

(1) require a plan of corrective action for emergency protection of the children; and

(2) assist in obtaining appropriate child care for any child who had been enrolled in the facility.

Sec. 8. (a) Subject to the requirements of this section, the division, upon request, shall provide an administrative hearing concerning the issuance of an order for emergency closure.

(b) The facility must make a written request for an administrative hearing under this section within ten (10) days after the date the division issued the order for emergency closure. This request must be made separately from a request for an informal meeting under section 5 of this chapter.

(c) The division shall hold an administrative hearing within ten (10) days after receiving a written request under subsection (b).

(d) The division shall issue a decision not more than ten (10) days after the conclusion of the hearing.

SECTION 3. IC 12-17.2-4-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. (a) The division shall investigate a report of an unlicensed child care center and report the division's findings to the attorney general and to the county department of public welfare office of family and children attorney and the prosecuting attorney in the county where the child care center is located. **The division shall also report the issuance of an order for emergency closure of a child care center under IC 12-17.2-2.5 to the attorney general and to the county office of family and children attorney and the prosecuting attorney in the county where the child care center is located.**

(b) The attorney general or the county department of public welfare office of family and children attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child care center if there is reasonable cause to believe that:

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- 1 (A) the child care center is operating without a license
 2 required under this article; or
 3 (B) a licensee's noncompliance with this article and the rules
 4 adopted under this article creates an imminent danger of
 5 serious bodily injury to a child or an imminent danger to the
 6 health of a child.
 7 (3) Seek in a civil action a civil penalty not to exceed one hundred
 8 dollars (\$100) a day for each day a child care center is operating
 9 without a license required under this article.
 10 (c) The division may provide for the removal of children from child
 11 care centers described in subsection (b).
 12 (d) An opportunity for an informal meeting with the division shall
 13 be available after the injunctive relief is ordered.
 14 (e) The civil penalties collected under this section shall be deposited
 15 in the child care fund.
 16 (f) Section 34 of this chapter does not apply to the civil penalties
 17 imposed under this section.
 18 SECTION 4. IC 12-17.2-5-29 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 29. (a) The division
 20 shall investigate a report of an unlicensed child care home and report
 21 the division's findings to the attorney general and to the county
 22 ~~department of public welfare~~ **office of family and children** attorney
 23 and the prosecuting attorney in the county where the child care home
 24 is located. **The division shall also report the issuance of an order for**
 25 **emergency closure of a child care home under IC 12-17.2-2.5 to the**
 26 **attorney general and to the county office of family and children**
 27 **attorney and the prosecuting attorney in the county where the**
 28 **child care home is located.**
 29 (b) The attorney general or the county ~~department of public welfare~~
 30 **office of family and children** attorney may do the following:
 31 (1) Seek the issuance of a search warrant to assist in the
 32 investigation.
 33 (2) File an action for injunctive relief to stop the operation of a
 34 child care home if there is reasonable cause to believe that:
 35 (A) the child care home is operating without a license required
 36 under this article; or
 37 (B) a licensee's noncompliance with this article and the rules
 38 adopted under this article creates an imminent danger of
 39 serious bodily injury to a child or an imminent danger to the
 40 health of a child.
 41 (3) Seek in a civil action a civil penalty not to exceed one hundred
 42 dollars (\$100) a day for each day a child care home is operating

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without a license required under this article.

(c) The division may provide for the removal of children from child care homes described in subsection (b).

(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the child care fund.

(f) Section 34 of this chapter does not apply to the civil penalties imposed under this section.

SECTION 5. IC 12-17.2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. **(a) Except as provided in subsection (b), a child care ministry is exempt from licensure under this article if the child care ministry complies with this chapter. However, a child care ministry may apply for licensure.**

(b) If a child care ministry:

(1) is closed under an order for emergency closure issued under IC 12-17.2-2.5; or

(2) operates out of compliance with this chapter for more than one (1) quarter;

the child care ministry must obtain a license.

(c) If a license is issued to ~~the~~ a child care ministry, the child care ministry shall comply with state laws and rules governing licensure of the type of facility that the ministry operates.

SECTION 6. IC 12-17.2-6-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. **(a) The division shall investigate a report of an unlicensed or unregistered child care ministry and report the division's findings to the attorney general and to the county office of family and children attorney and the prosecuting attorney of the county where the child care ministry is located. The division shall also report the issuance of an order for emergency closure of a child care ministry under IC 12-17.2-2.5 to the attorney general and to the county office of family and children attorney and the prosecuting attorney of the county where the child care ministry is located.**

(b) The attorney general or the county office of family and children attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child care ministry if there is reasonable cause to believe that:

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(A) the child care ministry is operating without a license or registration required under this article; or

(B) a licensee's or registered child care ministry's noncompliance with this article and the rules adopted under this article creates an imminent danger of serious bodily injury to a child or an imminent danger to the health of a child.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child care ministry is operating without a license or registration required under this article.

(c) The division may provide for the removal of children from child care ministries described in subsection (b).

(d) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(e) The civil penalties collected under this section shall be deposited in the child care fund.

SECTION 7. IC 12-17.4-3-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 31. (a) The division shall investigate a report of an unlicensed child caring institution and report the division's findings to the attorney general and to the county department of public welfare office of family and children attorney and the prosecuting attorney in the county where the institution is located. **The division shall also report the issuance of an order for emergency closure of a child caring institution under IC 12-17.4-3.5 to the attorney general and to the county office of family and children attorney and the prosecuting attorney in the county where the child caring institution is located.**

(b) The attorney general or the county department of public welfare office of family and children attorney may do the following:

(1) Seek the issuance of a search warrant to assist in the investigation.

(2) File an action for injunctive relief to stop the operation of a child caring institution if there is reasonable cause to believe that the child caring institution is operating without a license required under this article.

(3) Seek in a civil action a civil penalty not to exceed one hundred dollars (\$100) a day for each day a child caring institution is operating without a license required under this article.

(c) An opportunity for an informal meeting with the division shall be available after the injunctive relief is ordered.

(d) The civil penalties collected under this section shall be deposited

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in the child care fund.

SECTION 8. IC 12-17.4-3.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 3.5. Emergency Closure of Child Caring Institutions

Sec. 1. (a) The division may issue an order for emergency closure of a child caring institution if the division determines that:

- (1) the child caring institution is not in compliance with this article, including operating without the required license; and**
- (2) there is reasonable cause to suspect that the:**

- (A) health;**
- (B) safety; or**
- (C) well-being;**

of a child residing in the child caring institution is in imminent danger.

(b) An order for emergency closure issued under this section must include the following information:

- (1) The date and time of emergency closure.**
- (2) Each reason for emergency closure.**
- (3) Any condition that the child caring institution must remedy immediately.**
- (4) The right of the child caring institution to request an administrative hearing under section 7 of this chapter.**

Sec. 2. An order for emergency closure issued under this chapter takes effect immediately upon notice to the child caring institution.

Sec. 3. A child caring institution to which the division has issued an order for emergency closure may not operate during the time that an order for emergency closure is in effect.

Sec. 4. (a) A child caring institution to which the division has issued an order for emergency closure may request an informal meeting with the division within five (5) days after the order for emergency is issued.

(b) The division shall grant a request made under subsection (a).

Sec. 5. An order for emergency closure issued under this chapter remains in effect until the earliest of the following:

- (1) The child caring institution takes the action required by the division to address the reason for emergency closure.**
- (2) The division determines through an investigation that the reasonable cause required under section 1(a)(2) of this chapter for issuance of the order no longer exists.**
- (3) Fourteen (14) days after the date of issuance of the order.**

Sec. 6. After issuing an order for emergency closure of a child

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1 caring institution under this chapter, the division shall:

2 (1) require a plan of corrective action for emergency
3 protection of the children; and

4 (2) assist in obtaining appropriate child care for any child
5 who had been residing at the child caring institution.

6 Sec. 7. (a) Subject to the requirements of this section, the
7 division, upon request, shall provide an administrative hearing
8 concerning the decision to issue an order for emergency closure.

9 (b) The child caring institution must make a written request for
10 an administrative hearing under this section within ten (10) days
11 after the date the division issued the order for emergency closure.
12 This request must be made separately from a request for an
13 informal meeting under section 4 of this chapter.

14 (c) The division shall hold an administrative hearing within ten
15 (10) days after receiving a written request under subsection (b).

16 (d) The division shall issue a decision not more than ten (10)
17 days after the conclusion of the hearing.

18 SECTION 9. IC 16-36-3-1 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this
20 chapter, "appropriate facility" has the meaning set forth in
21 ~~IC 12-7-2-82(3)~~. **IC 12-7-2-82(4)**.

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